



# **MINUTES**

## **Development Assessment Committee Meeting**

**Wednesday, 16 November 2022**

**Date: Wednesday, 16 November 2022**

**Time: 6.00pm**

**Location: Council Chambers, 15 Stead Street, Ballan &  
Online**

**Order Of Business**

<b>1</b>	<b>Opening .....</b>	<b>3</b>
<b>2</b>	<b>Present and Apologies .....</b>	<b>3</b>
<b>3</b>	<b>Recording of Meeting .....</b>	<b>3</b>
<b>4</b>	<b>Confirmation of Minutes .....</b>	<b>3</b>
<b>5</b>	<b>Matters Arising from Previous Minutes.....</b>	<b>4</b>
<b>6</b>	<b>Disclosure of Conflicts of Interests .....</b>	<b>4</b>
<b>7</b>	<b>Community Planning Reports .....</b>	<b>5</b>
7.1	PA2022034 - Use and Development of the Land for a Road Freight Terminal and Create an Access to Transport Road Zone 2 at 355 Bungaree-Wallace Road, Bungaree .....	5
7.2	PA2022049 Development of Two Dwellings and Two Lot Subdivision at 79 Dickson Street, Bacchus Marsh .....	29
<b>8</b>	<b>Update on VCAT Decisions.....</b>	<b>44</b>
<b>9</b>	<b>Other Business .....</b>	<b>44</b>
<b>10</b>	<b>Date of Next Meeting .....</b>	<b>44</b>
<b>11</b>	<b>Meeting Close.....</b>	<b>44</b>

## 1 OPENING

The Mayor opened the meeting with the Council Prayer at 6:00pm

## 2 PRESENT AND APOLOGIES

Cr Tom Sullivan, Mayor	West Moorabool Ward
Cr Tonia Dudzik, Deputy Mayor	East Moorabool Ward
Cr Moira Berry	East Moorabool Ward
Cr David Edwards	East Moorabool Ward
Cr Rod Ward	East Moorabool Ward
Cr Paul Tatchell	Central Moorabool Ward
Cr Ally Munari	Woodlands Ward

### IN ATTENDANCE:

Mr Derek Madden	Chief Executive Officer
Mr Henry Bezuidenhout	Executive Manager Community Planning & Development
Ms Celeste Gregory	Executive Manager Democratic Support & Corporate Governance
Mr Robert Fillisch	Manager Statutory Planning & Regulatory Services
Mr Mark Lovell	Coordinator Statutory Planning

### APOLOGIES:

Nil.

## 3 RECORDING OF MEETING

In accordance with Moorabool Shire Council's Governance Rules, the meeting is livestreamed.

## 4 CONFIRMATION OF MINUTES

### COMMITTEE RESOLUTION

Moved: Cr Ally Munari

Seconded: Cr Rod Ward

That the minutes of the Development Assessment Committee Meeting held on Wednesday 19 October 2022 be confirmed.

**CARRIED**

**5 MATTERS ARISING FROM PREVIOUS MINUTES**

Nil.

**6 DISCLOSURE OF CONFLICTS OF INTERESTS**

Nil.

**PRESENTATIONS/DEPUTATIONS**

<b>Item</b>	<b>Community Planning and Development</b>	<b>Speaker/s</b>	<b>Position</b>	<b>Attendance</b>
7.1	PA2022034 – Use and Development of the Land for a Road Freight Terminal and Create an Access to Transport Road Zone 2 at 355 Bungaree-Wallace Road, Bungaree	Lisa Steenhuis	Objector	In Person
7.1	PA2022034 – Use and Development of the Land for a Road Freight Terminal and Create an Access to Transport Road Zone 2 at 355 Bungaree-Wallace Road, Bungaree	James Robson	On behalf of Applicant	Online

## 7 COMMUNITY PLANNING REPORTS

Lisa Steenhuis addressed the Committee as an objector to Item 7.1.

James Robson addressed the Committee on behalf of the applicant to Item 7.1.

### 7.1 PA2022034 - USE AND DEVELOPMENT OF THE LAND FOR A ROAD FREIGHT TERMINAL AND CREATE AN ACCESS TO TRANSPORT ROAD ZONE 2 AT 355 BUNGAREE-WALLACE ROAD, BUNGAREE

**Author:** Jyoti Makan, Senior Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:** 1. Proposed Plans (under separate cover)

#### APPLICATION SUMMARY

**Permit No:** PA2022034

**Lodgement Date:** 14 February 2022

**Planning Officer:** Jyoti Makan

**Address of the land:** 355 Bungaree-Wallace Road, Bungaree

**Proposal:** Use and Development of the land for a Road Freight Terminal and Create an Access to Transport Road Zone 2

**Lot size:** 5.4ha

**Why is a permit required?** Clause 35.07 (Farming Zone) Use and development of the land for a Road Freight Terminal; Clause 35.07 (Farming Zone – Schedule 1) – Building less than 100m from Transport Zone 2; Clause 42.01 – (Environmental Significance Overlay – Schedule 1) – Construction and carrying out of works; Clause 52.29 – Create an access to Transport Road Zone 2.

#### MOTION:

Moved: Crs Paul Tatchell

Seconded: Rod Ward

That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Notice of Decision to grant Planning Permit PA2022034 for Use and Development of the Land for a Road Freight Terminal and Create an Access to Transport Road Zone 2 at 355 Bungaree-Wallace Road, Bungaree based on the following conditions:

#### Amended Plans:

1. Prior to commencement of the use and/or development, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be

provided. The plans must be generally in accordance with the plans submitted, but modified to show:

- (a) Submission of a landscape plan in accordance with the Condition 3.
  - (b) Details of all materials, colours and finishes to all proposed buildings.
  - (c) Details including elevations of all new boundary fencing.
  - (d) Dimensions of all car spaces and accessway widths.
  - (e) Show the location of all external waste disposal areas.
  - (f) Amend the Environmental Management Plan to include all environmental risks at outlined by EPA Victoria's letter dated 29 September 2022.
  - (g) Details of a wastewater management plan in accordance with Condition 7.
2. The proposal and all works must be generally in accordance with the endorsed plans and must not be modified except to comply with statutory requirements or with the written consent of the Responsible Authority.

**Landscaping:**

3. Prior to commencement of any works on site, detailed landscape plans including layout and number and position of each species to be planted must be submitted to the responsible authority for approval. The landscaping plans must be in accordance with the Landscape Design Manual and should:
- (a) Include new mature tree planting along the boundaries of the site to act as a screen to the operations on the site.
  - (b) Detail of vegetation being retained and removed.
  - (c) Permeable and impervious surfaces, material and finishes.
  - (d) The location and details of permanent and temporary fencing to protect retained street trees. These fences must be erected prior to the commencement of works to the satisfaction of the Responsible Authority.
  - (e) Shows the location of all street trees to be retained and all street trees to be removed.
4. Shrubs and trees must be planted and maintained to screen activity on the site to the satisfaction of the Responsible Authority.
5. Areas set aside for landscaping on the endorsed plan shall be used for no other purpose.

**Operational:**

6. Except with the consent of the Responsible Authority in writing, the hours of operation of the uses hereby permitted shall be limited to Monday to Sunday: 6am to 10pm.
7. Cleaning of equipment, including vehicles and machinery must be done in accordance with the endorsed wastewater management plan to the satisfaction of the Responsible Authority.

**Amenity:**

8. The use and development must be managed so that the amenity of the area is not unreasonably affected, through the:

- (a) Transport of materials, goods or commodities on the land.
  - (b) Appearance of any building, works or materials.
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, water, waste products, grit or oil, movement of grain.
  - (d) Presence of vermin.
  - (e) Any other way.
9. The use and development must operate in strict accordance with the endorsed Environmental Management Plan.
10. Mitigation measures and monitoring outlined in the Environment Management Plan must be carried out to the satisfaction of the Responsible Authority.
11. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.
12. The use and development must be designed and operated to comply with EPA publication 1411 – Noise from Industry in Rural Victoria Guidelines to the satisfaction of the Responsible Authority.
13. Any noise from construction activities must be in accordance with EPA publication 1254 – Noise Control Guidelines to the satisfaction of the Responsible Authority.
14. No external sound amplification equipment, loud speaker or siren shall be provided to the site within the written consent of the Responsible Authority.
15. Any reversing alarms on mobile equipment must be broadband smart beepers that adjust beeper levels in accordance with the ambient noise environment.
16. Shipping containers can be not stacked one on top of another unless with the written consent of the Responsible Authority.
17. All trucks travelling to and from the site must be fully covered.
18. Unless exempt under the planning scheme or a separate planning permit is granted, no signage shall be displayed on the land.

**Car Parking:**

19. A minimum of nine car parking spaces must be provided on the land for the use and development. This must be separated from the heavy vehicle parking spaces or queuing areas.

**Infrastructure:**

20. The new proposed vehicle crossing must be constructed to rural industrial standard to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.
21. Prior to the development and use commencing, engineering drainage plans and computations must be submitted to the Responsible Authority for approval and shall incorporate the following:
- (a) The development as a whole must be self draining and must be connected to an approved point of discharge in an approved manner to the satisfaction of the Responsible Authority.

- (b) **Underground piped drainage for the whole development shall cater for 10% AEP storm.**
  - (c) **Overland 1% AEP flow path(s) for the development must be shown on layout plans and shall ensure that no property is subject to inundation by such a storm to the satisfaction of the Responsible Authority.**
- 22. Storm water drainage from the proposed buildings and impervious surfaces must be directed to the legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the responsible authority prior to the commencement of the works associated with the permit.**
- 23. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).**
- 24. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**
- 25. The proponent must make private arrangements for waste collection.**
- 26. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services identifying any existing damage to Council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.**
- 27. Prior to the use commencing, the car park areas must be constructed with an all-weather surface, line-marking and drainage to the satisfaction of the Responsible Authority, and shall incorporate the following:**
  - (a) **Parking bays and aisle widths of the car park shall comply with Australian Standard AS 2890.1:2004 Off-Street car parking. Disabled Parking bays shall comply with Australian Standard AS2890.1:2009 Off-Street Parking for People with Disabilities.**
  - (b) **Designated loading areas shall be shown on layout plans.**
  - (c) **The parking areas shall be provided with an all-weather surface and associated drainage.**
  - (d) **Concrete kerb of a minimum height of 150mm must be provided between landscaped areas and areas provided for parking and the passage of vehicles.**
  - (e) **The car park must provide sufficient space for a service truck to enter and exit the site in a forward direction. The service truck shall comply with the medium rigid vehicle detailed in AS2890.2 Section 2.2. Turning templates shall be submitted for approval.**
- 28. The building shall be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.**

**Department of Transport:**

- 29. Before the use approved by this permit commences, the following roadworks on the Bungaree-Wallace Rd must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria:**
  - (a) **left and right turn lanes;**



- (b) asphalt wear course overlay at the truck access point; and
- (c) advance warning signage on the eastern approach.

30. Prior to the works commencing, the applicant must enter into a works agreement with the Head, Transport for Victoria, confirming design plans and works approvals processes, including the determination of fees and the level of the Head, Transport for Victoria service obligations. Contact: [western.mail@roads.vic.gov.au](mailto:western.mail@roads.vic.gov.au).

**Environmental Health:**

- 31. The land application area and all conditions must be in accordance to the Land Capability Assessment prepared by Provincial Geotechnical Pty Ltd, ref number 17884I dated 22 October 2021 or any approved amendment are to be strictly adhered to.
- 32. An onsite wastewater management system with the capacity to treat effluent to a minimum of 20mg/L BOD and 30mg/L Suspended Solids must be installed.
- 33. Effluent disposal must be undertaken via subsurface irrigation system designed and installed by a wastewater irrigation expert in accordance with the EPA Code of Practice for Onsite Wastewater.
- 34. The wastewater management system from proposed buildings must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice 891.4; Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
- 35. The effluent disposal area must be kept free of buildings, driveways, vehicular traffic and services trenching.
- 36. All setback distances must be adhered to as dictated by Table 5 of the Code of Practice, Onsite Wastewater Management, EPA Publication Number 891.4
- 37. A shallow surface water cut off drain or surface water diversion mound, should be provided on the high side of the disposal areas to divert any surface water flows around the effluent fields.
- 38. Subsurface Irrigation system needs to be installed to a depth of 150mm in situ or if the soil is of poor quality, imported good quality topsoil may be required, with a 1m spacing in between lines.
- 39. The owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.
- 40. Wash down water to be recycled or discharged via a triple interceptor. No storm water to enter the onsite wastewater management system.

**Powercor:**

- 41. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- 42. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
- 43. Apply for a site visit and permit to work assessment. This can be done via the Powercor website.
- 44. Keep the easement land clear of any buildings or structures whatsoever.
- 45. The property owner/builder should contact Dial before you Dig, before any excavation

works are undertaken on the property.

46. The applicant shall negotiate for an electricity supply to the development in accordance with the Distributor's requirements and standards.

Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

47. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).

Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

**Central Highlands Water:**

48. The grain storage and transport facility must be constructed in compliance with the Site Plan Project by Red Line Plans Victoria ID 12827773 dated 10 May 2022.
49. Stormwater must be connected to the legal point of discharge as per Moorabool Shire requirements for Report and Consent under *Building Regulations 2018*, regulation 133(2).
50. The facility must be constructed and operated in compliance with the Environmental Management Plan by EDQ Town Planning Reference 12827773 dated 20 June 2022.

**Permit Expiry:**

51. This permit will expire if:
- (a) The use and development must commence within two years of the date of issue on the Permit.
  - (b) The development must be completed within four years of the date of issue on this Permit.

LOST

**COMMITTEE RESOLUTION**

Moved: Crs Tonia Dudzik

Seconded: Ally Munari

**That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Refusal to Grant Permit PA2022034 for Use and Development of the land for a Road Freight Terminal and Create an Access to Transport Road Zone 2 at 355 Bungaree-Wallace Road, Bungaree based on the following grounds:**

- 1. The proposal does not comply with the objectives of the Farming Zone.**
- 2. The proposed use and development and its associated operations is considered to adversely impact the amenity of the surrounding area.**
- 3. The proposed use does not comply with orderly planning of the area pursuant to Clause 21.09 and Clause 11.02-2S of the Moorabool Planning Scheme.**

**CARRIED**

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<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	Nil.
Number of objections:	Seven objections were received.
Consultation meeting:	A consultation meeting was held between officer, applicant, and objectors where issues were discussed.

### **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities**

**Priority 1.2: Improve access and opportunities for integrated transport**

The proposal is inconsistent with the Council Plan 2021 – 2025.

### **VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

### **OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

*Author – Jyoti Makan*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

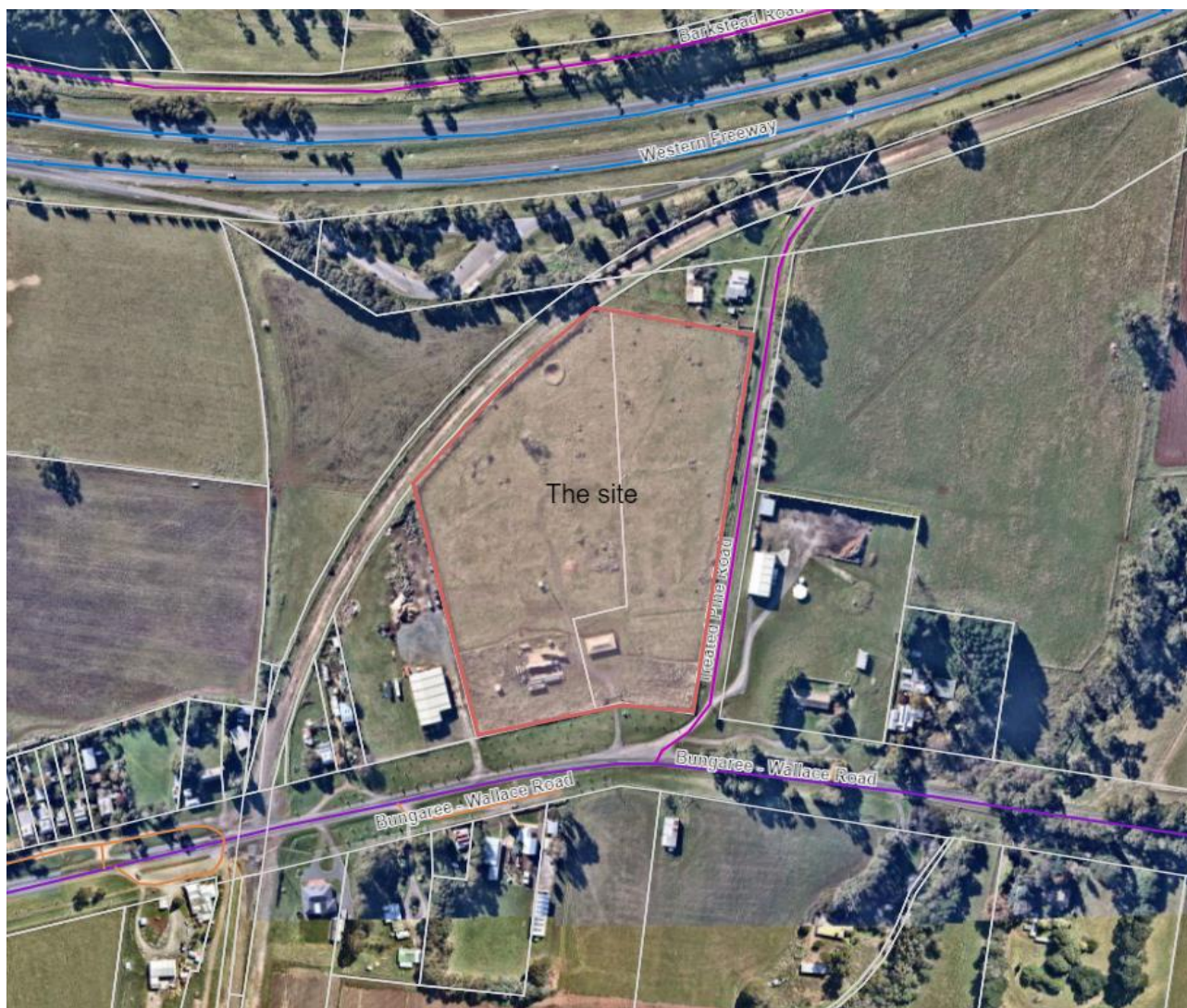
**EXECUTIVE SUMMARY**

Application referred?	The application was referred to Central Highlands Water, Department of Transport, Powercor, Environmental Protection Authority (EPA), Agriculture Victoria, Council's Infrastructure, Strategic Planning and Environmental Health.
Any issues raised in referral responses?	Site risk and environmental management, storage, spills, fuels and lubricants, gross pollutants and stormwater systems, and future use of the site.
Preliminary concerns?	Concerns related to visual bulk, industrial land uses on land zoned for farming, future structure planning, close proximity to residential development and a school, operations of storage and transfer activities.
Any discussions with applicant regarding concerns?	Several discussions took place and a request for further information was sent to the applicant.
Any changes made to the application since being lodged?	The applicant lodged an amendment in process.
Brief history.	Refer to 'Background' below.
Previous applications for the site?	PA2019204 - The subject site was previously proposed for use and development of a warehouse and creation of access to a Road Zone.
General summary.	<p>The application is proposed to use and develop the site for a Road Freight Terminal and access to a Transport Zone 2.</p> <p>Seven objections were received mainly on traffic management, noise, future growth, environmental management, pollution, truck movements.</p> <p>The proposed is not located within an industrial zone and has sensitive interface with adjacent and nearby land uses. The proposal can cause off site amenity impacts.</p> <p>The proposed use and development is recommended for refusal.</p>
<b>Summary of Officer's Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Refusal to Grant a Permit PA2022034 for the Use and Development of the land for a Road Freight Terminal and Create an Access to Transport Road Zone 2, at 355 Bungaree-Wallace Road, Bungaree.	

## SITE DESCRIPTION

The site is irregular shaped abutting Bungaree-Wallace Road and the Western Freeway. The property is known as Lot 1 and 2 on Plan of Subdivision 529711R. The extent of the site is 5.4ha and fronts Bungaree-Wallace Road for 141m where vehicle access is achieved.

The site is developed with a single storey building and several sheds on the property. The street reserve fronting the property was recently planted with trees.



**Figure 1: The site**

The site is also described with its interface to streets and abutting properties as follows:

East – Treated Pine Road (unmade road) wraps the sites eastern boundary. Directly east of this road are two residential land uses within the Farming Zone.

South – Bungaree-Wallace Road is used to access the site from the southern boundary. A Primary School is directly across the site and is also accessed via Bungaree-Wallace Road and is in the Farming Zone. Bungaree-Wallace Road is a state-managed arterial road made up of a two-way carriageway with an 80kmph speed limit. To the south-west are dwellings in the Township Zone.

West – The westerly abutting site is a large shed used for machinery storage and landscape supplies. Dwellings are developed on land further to the west of this site and are located in the Township Zone.

North- The site abutting the property is a dwelling in the Farming Zone. A decommissioned Melbourne rail line wraps the northern interface.

### **PROPOSAL**

The application proposes a Road Freight Terminal with several buildings mainly used in conjunction with the primary proposed operations such as an office, silos for storage of grains, and a workshop for vehicle servicing. The buildings and works associated with the Road Freight Terminal are as follows:

- A workshop (approximately 575m<sup>2</sup>) is proposed to provide servicing and cleaning for vehicles and equipment. It is proposed that this workshop be constructed on the current hardstand area which already exists on the site. Plans for the workshop structure are attached.
- Five grain silos are proposed not to exceed 20,000 tonnes per annum. Each silo is proposed at 14.5m in height with non-reflective fabricated steel, plans attached.
- The existing building is proposed as an office space for staff with shower facilities and amenities for drivers.
- Nine parking spaces and one accessible space is proposed just north of the proposed office.
- The proposal includes a new heavy vehicle access and a 10m wide driveway and internal circulation roadways to accommodate up to 36m in length vehicles to move in a one way clockwise direction, as seen on the site plan attached.
- Separate access is proposed for light and other vehicles.

#### Hours of operation:

The facility will operate as follows:

- Four to five office/yard staff will be required with standard office hours proposed between 7am and 6pm, Monday to Friday.
- Freight operations will primarily occur between 3am and 10pm, however, 24-hour freight access is required for occasional late arrivals from long-haul trips.

### **BACKGROUND TO CURRENT PROPOSAL**

The application was lodged on 14 February 2022 and referred to the relevant authorities. After a preliminary assessment, a request for further information was sent to the applicant. The application responded with a response to address Council's concerns. One of which was the details of the proposal and understanding of the land uses and planning permit triggers. Other concerns related to the use of the land for industrial like activities, amenity impacts, environmental and traffic hazards.

### **HISTORY**

The site was previously used as a timber yard and was vacant for a long period of time.

**PUBLIC NOTICE**

The application was notified to adjoining and surrounding landowners and seven objections were received.

**SUMMARY OF OBJECTIONS**

The objections received are detailed below with officer's comments accompanying them:

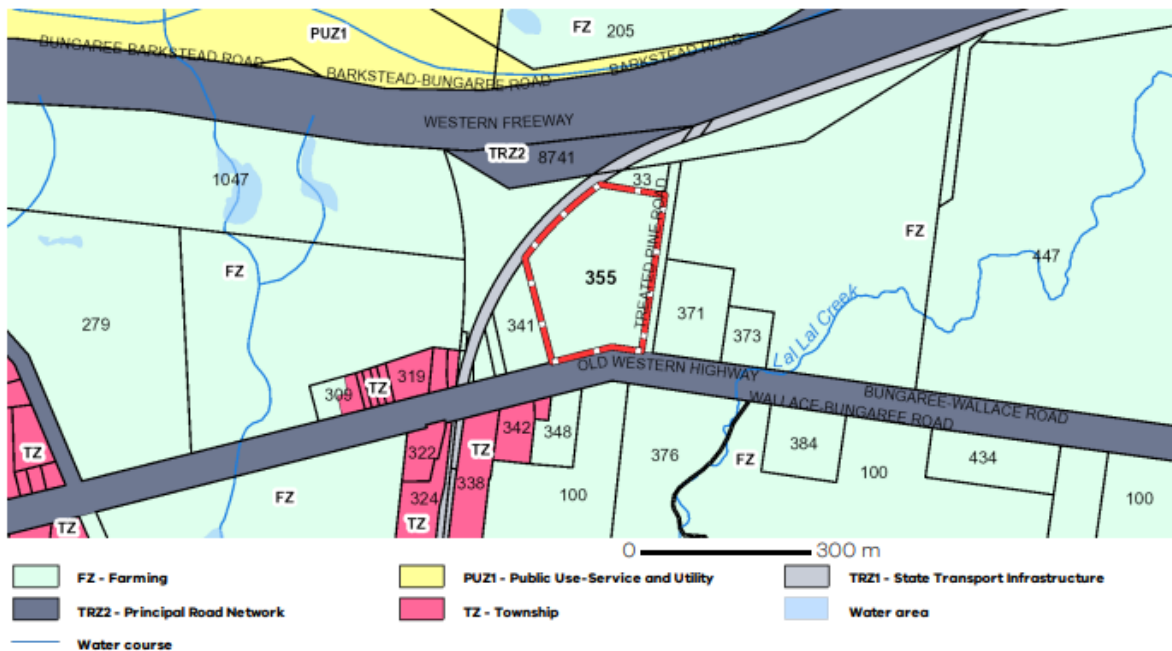
<b>Objection</b>	<b>Any Relevant Requirement</b>
Noise pollution and truck movements on roads serving farmland and agricultural livestock, near Township Zone, Education and along vegetated road reserves.	Clause 13.05 – Noise Clause 13.06 – Air quality Clause 13.07 – Amenity, Human Health and Safety Clause 18 - Transport
<b>Officer's Response:</b>	
Heavy vehicle movements are proposed to occur most of the day and will be travelling in an easternly and westerly direction to access the Freeway. Therefore, both the agricultural zones and township zones will be negatively impacted. The road has a speed limit of 80km per hour and will be traveling at this speed on an approximately 6.8m two-lane two-way carriageway. The risks to agricultural livestock from high vibration truck movements is expected from the proposal.	
<b>Objection</b>	<b>Any Relevant Requirement</b>
Impact on the school students and access to the school.	Clause 13.07 – Amenity, Human Health and Safety
<b>Officer's Response:</b>	
Officers agree that traffic movements will have a potential impact on the School given its location and proximity to the access points and future heavy vehicle traffic movements.	
<b>Objection</b>	<b>Any Relevant Requirement</b>
Visual Amenity in the township, proposal is not in harmony with surrounding area.	Clause 21.03-5 – Small Town Development Clause 21.03-4 – Landscape and Neighbourhood Character Clause 43.02 – Design and Development Overlay – Schedule 2 (DDO2)
<b>Officer's Response:</b>	
The Bungaree and Wallace towns are listed in the small towns and settlement strategic vision to encourage growth without compromising expansion for residential dwellings. The proposal offers built form and activities that are more suited to an industrial area rather than the Farming Zone near residential dwellings and a school. Visual amenity and neighbourhood character is compromised by the proposal. The large silos and associated activities will take a negative visual form in a rural space and not considered to synchronise with the surrounding area. Visual bulk and amenity is further discussed in the 'Discussion' below.	



Objection	Any Relevant Requirement
Air Pollution (Grain dust).	Clause 13.07 – Amenity, Human Health and Safety
<b>Officer's Response:</b>	
Grain dust is combustible and a referral to CFA for advice was processed. The applicant did not provide information on the combustible nature of the grain dust and measures in place to control the risk and hazards. The Environmental Protection Authority (EPA) stated that all works must be undertaken as per the EPA Publication 1834 to avoid significant grain dust to sensitive receptors. Council officers have concerns over how the Regulations would be met.	
Objection	Any Relevant Requirement
Safety and Traffic Hazard.	Clause 18 – Transport and Movement Network
<b>Officer's Response:</b>	
The road reserve is a two-lane two-way street and trucks will be traversing east and west to be able to get onto the Western Freeway. Vehicles move at high speeds and the school where children are expected is directly across the site. Vehicles are also required to travel past residential dwellings in the Township Zone located some distance to east and west. The road reserve is constructed as per rural standards and footpaths are non-existent. The width of the road reserve (carriageway) is approximately 6.8m and is considered to be narrow to facilitate large B-Double truck movements. Such vehicles are approximately 31m to 36m long.	
Objection	Any Relevant Requirement
Light spill and hours of operation.	Clause 13.07 – Amenity, Human Health and Safety
<b>Officer's Response:</b>	
Trucks are proposed to ingress and egress the property within day and night hours resulting in light spill risks throughout the 24 hours period. Considering the large silos and the need for lighting and signage on site to guide truck movements, additional on-site light spill is expected. The proposed office runs from 7am to 6pm and the access to the terminal and warehouse is between 3am to 10pm. Trucks especially from long haul trips require 24 hours access to the site.	
Council officers have particular concern on amenity of the surrounding area during the period of 3am to 7am.	

## LOCALITY MAP

The map below indicates the location of the subject site and the zoning of the surrounding area.



**Figure 2: Locality and Zoning Map**

## PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant Clauses are:

- Clause 11.01-1R – Settlement – Central Highlands
- Clause 11.02-2S – Structure Planning
- Clause 13.02 – Bushfire Planning
- Clause 13.05 – Noise
- Clause 13.06 – Air Quality
- Clause 13.07 – Amenity, Human Health and Safety
- Clause 15.01-2S – Building Design
- Clause 17.03 – Industry
- Clause 18 – Transport
- Clause 19.03 – Development Infrastructure
- Clause 21.09 – Small Towns and Settlements

The proposal does not comply with the relevant section of the PPF and the LPPF clauses outlined in the table below:

PPF	Title	Response
Clause 13.05	Noise	The applicant stated that noise levels will meet the EPA regulations and acoustic reports will be conducted if a permit were to be issued. Truck movements, grain silos and servicing of vehicles are all noise related activities and within 50-100m from sensitive receptors. Further assessment on noise is detailed in the assessment section of this report.
Clause 13.06	Air Quality	Fire, grain dust generation and contamination of land and stormwater are all environmental and amenity risks that could occur from the proposal. The applicant stated that EPA publication 1834 will be followed but no details on the operational activities and how all risks will be managed.  See 'Assessment' below for further details.
Clause 13.07	Amenity, Human Health and Safety	
Clause 15.01-2S	Building Design	The considerable height and diameter of the grain silos and large trucks, shed and terminal buildings are considered to be visually detrimental to the character of the neighbourhood. This is further outlined in the 'Assessment' below.

Clause 18	Transport	Specifically, Clause 18.02-5S (Freight) should facilitate safe, sustainable and efficient freight and logistics systems to enhance liveability. Given the close proximity of residents and agricultural practices and livestock, the access routes available to truck movements and the widths of the route, it is unlikely to be considered safe and efficient. Structure planning was not considered in the application and is therefore not a sustainable outcome. Road Freight Terminals are ideally situated in the Industrial Zone especially where 24 hours a day access is required.
<b>LPPF</b>		
Clause 21.09	Small Towns and Settlements	The proposal does not facilitate orderly planning outcomes, is out of character and considered premature given that the Moorabool Planning Scheme stipulated that further land use studies will be conducted for the Bungaree area.

## ZONE

The site is located in the Farming Zone.

Purpose of the Farming Zone is

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

A planning permit is required to use the land for a Road Freight Terminal and for buildings and works associated with a Section 2 use.

## **OVERLAYS**

### Environmental Significance Overlay (ESO1)

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered by the responsible authority:

- The slope, soil type and other environmental factors.
- The need to maintain water quality at a local and regional level.
- The possible effect of the development on the quality and quantity of water in local watercourses, including the impact on nutrient levels.
- The preservation of and impact on soils and the need to prevent erosion.
- The need to prevent or reduce the concentration or diversion of stormwater.
- Before deciding on an application, the responsible authority must consider the comments of the relevant water authority on the:
  - Effect of the proposed development and, where applicable, the method of waste disposal on the quality and quantity of water within the proclaimed catchment; and
  - Requirements and provision of the State Environment Protection Policy (Waters of Victoria) and the provisions of the “Septic Tanks Code of Practice”.

Under Clause 43.01, a planning permit is required for the construction and carrying out of works.

The ESO1 does not exempt the proposed development works. A Land Capability Assessment (LCA) was submitted with the application and referred to the relevant water catchment authority, Central Highlands Water.

## **Relevant Policies**

Small Towns and Settlements Strategy (Part A) - Reticulated sewerage was considered priority in the strategy and the local and planning policy for small towns state that further strategic work be implemented in the Bungaree and Wallace areas. At this stage, Moorabool Shire Council is engaging with Central Highlands Water to explore the potential to expand reticulated sewer services to the towns of Bungaree and Wallace. Mesh Consultants have been engaged to start the Structure Planning project and once the first phase commences and the location of potential future housing is established, further works on the reticulated sewerage plans can be investigated.

## **Particular Provisions**

### Clause 52.29 – Land Adjacent to a Transport Zone

- To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.
- To ensure appropriate subdivision of land adjacent to Principal Road Network or land planned to form part of the Principal Road Network.

A permit is required to:

- Create or alter access to a road in a Transport Zone 2.

The application was referred to the Department of Transport who had no objection to the new access.

Clause 53.18 – Stormwater management in urban development

To ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.

Clause 52.06 – Car Parking

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Clause 52.06 applies to:

- a new use; or
- an increase in the floor area or site area of an existing use; or

A Road Freight Terminal is not listed land use under this clause.

There is adequate parking on site in the form of formal and informal parking.

Four to five staff members are proposed, and visitations are said to be infrequent. Nine car formal parking bays will be available, including one accessible bay for staff and visitors. The submitted Traffic Impact Assessment states that if any risks of a parking shortfall exists on site, ample space for informal car parking is available throughout the site.

Both formal and informal car parking were considered by Council's Infrastructure who had no issues with the proposal considering the size of the property, locational factors and the nature of the land use proposed.

**DISCUSSION**

To undergo an assessment of the application, the proposed land use and associated activities must be analysed to formulate possible terms and definitions in the Planning Scheme. The activities listed in the proposal section of this report clearly indicates that the land will mainly be used as a Road Freight Terminal which is nestled in the "Transport Terminal" land use.

Transport terminal is defined as 'Land used to assemble and distribute goods or passengers' and includes facilities to park and manoeuvre vehicles. The uses included in a Transport Terminal are:

- Airport
- Bus Terminal
- Heliport

- Railway station
- Road Freight Terminal and
- Wharf

The application proposed a Road Freight Terminal only and does not include any of the other above listed inclusions under a Transport Terminal.

In the absence of a definition of Road Freight Terminal in the planning scheme Council officers refer to the meaning as defined by a dictionary being a *'building or place used primarily for bulk handling of goods for transport by road and includes related facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles'*.

In summary a Road Freight Terminal will include its associated servicing of vehicles, warehousing operations, office, and handling of goods which supports the transport system.

The proposal includes a land use that requires several freight movements, and is generally associated with industrialised areas, and as specified in the general provisions of the planning scheme, the responsible authority must consider several decision guidelines. These are the fundamental factors for consideration:

- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The purpose of the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

An important consideration is the establishment of a Road Freight Terminal in an area with sensitive interfaces to community facilities i.e., Bungaree Primary School. The introduction of an industrial use of this nature on a permanent basis is inconsistent with good planning outcomes and the application was not able to demonstrate how the offsite impacts could be mitigated. Any previous use cannot be referenced as precedence in overriding good planning outcomes.

The eastern interface is characterised by land zoned for farming purposes and currently used for agricultural purposes and dwellings. Many of these land parcels hold livestock, residential dwellings and agricultural produce. These sites are accessed via the same route that trucks are proposed to travel to and from the site towards the nearest freeway connection. Therefore, the heavy vehicle movements affect the environment, human health and amenity of the area via the noise levels, distractions from truck movements at day and night periods, light spill and air pollution. Similarly, these negative impacts will carry through the southern and western interfaces where residential dwellings and a Primary School exists. Although swept paths are provided, the size of the proposed trucks and acknowledging the narrow carriageway it will move along increases the likelihood of potential traffic hazards towards the School site. The introduction of heavy vehicle traffic in proximity to children accessing a school is a land use conflict and will create future safety concerns and the likelihood of accidents.

There needs to be regard to the orderly planning of the area and this is relevant because the Bungaree and Wallace area is considered in the Small Towns and Settlements (Clause 21.09) policy to be strategically planned to guide future growth and development in the area. At such a time, consideration will be taken for the preferred and most suitable uses of the land near the Township Zone, reticulated sewerage and develop adequate infrastructure to cater for the planned growth. Bungaree is earmarked for future growth in terms of the Small Towns and Settlements Strategy 2018. Council has identified it as an action in the Council Plan to develop a Structure Plan to facilitate and manage future growth and development. In addition to impacting existing development, it also has the potential to impact future development to be determined by the structure plan. This application should be considered in the context of future development implications. The structure planning process has formerly commenced with a significant amount of background works undertaken to inform the structure planning process, including discussions with relevant agencies.

#### Traffic Management and Movement

The heavy vehicle servicing area is separated from the office and staff/visitor parking area for safety purposes. The Traffic Impact Statement stated that standard vehicles could park elsewhere on the site, but it is considered that if a parking shortfall were to exist, staff and visitors should not be allowed to use areas where trucks are intended to be positioned to avoid risks and potential traffic hazards. The servicing area is accessed from a 10m wide driveway.

Swept paths were provided and accepted by the Department of Transport under the condition that access to Bungaree-Wallace Road be completed prior to the use commencing, to include:

- Left and right turn lanes.
- Asphalt wear course overlay at the truck access point.
- Advance warning signage on the eastern approach.

Whilst the Department of Transport consented to the application, Council officers understand that the Bungaree-Wallace Road can be used for B-Double 26m truck movements but not A-Doubles 36m truck movements. The applicant stated that they are in the process of obtaining a heavy vehicle permit from the National Heavy Vehicle Regulator (NHVR) to allow for the use of A-Double vehicles. Based on the intent of introducing A-Double vehicles on a road that does not have current approval for A-Double vehicles, it is unclear what impact these heavy vehicles will have on the road network. This raises a significant concern for Council.

According to the application, the proposed heavy vehicle access driveway will be 60m from Bungaree Primary School's existing driveway and access.

The layout was designed to meet the following criteria:

- Permit two-way passing movements on the driveway.
- Ensure trucks entering Bungaree-Wallace Road not cross over the road centreline.
- Swept paths for entering and exiting vehicles in Traffic Impact Assessment provided by the applicant.

Below is an excerpt of the attached Traffic Impact Assessment which states that 56 daily trips are expected in ingress and egress the site.



Vehicle	# Trucks	Trip Rate	Daily Trips (Entry +Exit)	Peak Hourly Trips
A-Double (36m)	4	0.75	6	1
B-Double (26m)	10	0.75	15	1
Prime Movers & Single Trailer Combinations (19m)	14	1.25	35	2
<b>TOTAL</b>	<b>28</b>	<b>-</b>	<b>56</b>	<b>4 (approx 1 exit every 15 minutes)</b>

**Table 1:** Excerpt from the Traffic Impact Assessment drafted by Fernway Engineering.

Although there is a narrow bend in the road at the closest western intersection of Bungaree-Wallace Road and the Freeway, the heavy vehicles will have access to both east and west. Therefore, there is a distinct negative impact on both the Township Zone and the Farming Zones east and west of the site.

The TIA states that: *“most trucks being expected to travel via Wallace, as it offers a more suitable option for accessing the Western Freeway with heavy vehicles, via a diamond interchange. As such, based on the separation, visibility, speeds and traffic volumes, the proposal is not anticipated to present any significant hazard to the operation of Bungaree Wallace School. Measures can be adopted by the owner/manager to further manage ongoing safety, such as communication to drivers about school drop-off/pick-up times, and internal caution signage for exiting trucks”.*

Driver behaviour cannot be controlled by permit conditions and the report highlights potential conflicts such as during drop off and pick up times from the Bungaree Primary School. With long haul vehicles it will be difficult to enforce drivers not to enter or exit the site during these times.

The parking for the heavy vehicles are designed to cater for:

- 40m X 4.5m for 36m A-Double vehicles.
- 26m X 3.5m for 26m B-Double vehicles.
- 19m X 3.5m for 30m prime movers.

### Amenity

Pollution (Noise, Contamination).

The EPA confirmed that noise is expected to be produced on the site primary through the use of machinery and trucks.

The Environmental Management Plan proposes some mitigation measures. This was mainly that high vibration and noisy work will occur during the normal work hours and away from residents and that the terminal will be soundproof. However, it is considered that the distance from the terminal to the Bungaree Primary School and residents is within 50 to 90m away from the site. No acoustic assessment results were provided externally of the site. Typically, the industrial use of the land will provide a poor amenity outcome to adjacent and nearby sensitive land uses.

The applicant was requested to provide additional details, but no clear information was submitted to detail how the operational activities would take place without adversely impacting sensitive uses. Council received an Environmental Management Plan (EMP) which outlined that noise levels must meet the EPA regulations however, no details as to how this would occur other than timing of noise generating activities being conducted during the day.

The filling and emptying of the grain silos will omit noise levels exceeding regulated levels. Fumigants and chemicals will need to be managed and regulated on site. The area clearly shows

that uses organically emerged with service and community based needs to support the residents nearby who support the farming practices. The proposed location of the silos will impact the sensitive uses upon assessment of Clause 13.05-1S (Noise) of the Planning Scheme.

The submitted EMP did not provide details the workshop risks to contamination and noise will be managed on site.

A Land Capability Assessment was submitted, which identifies the onsite effluent areas to be maintained to protect surface waters. However, contamination in the form of fuel and chemicals should not lead to stormwater channels.

A Stormwater Management Strategy was submitted with the proposal which was considered satisfactory.

The EPA provided advice that additional guidelines can be found in the “How to control noise from your business”.

#### Light Spill

Light spill is defined as unwanted transmission of light onto adjacent sensitive land uses. The proposed operating hours, workshop, silos and truck movements will require externally lighting as a safety measure, particularly when vehicles are accessing the site outside daylight hours.

#### Fire Risk

The site is in a bushfire prone area and grain dust is highly combustible. The application was referred to the Country Fire Authority (CFA). No objection was received. The applicant was advised that the submitted EMP did not provide sufficient detail on how risk of fire will be avoided. The applicant suggested that any further detail be made a permit condition.

#### Environmental Consideration

The submitted EMP, does not address all major risks associated with the operation of the proposed facility and the storage and handling of large amounts of grain and dust generation and fire. A Hazard and Risk Register was submitted indicating two hazards being waste; and contaminated land and groundwater. The potential causes were outlined and classified as contamination from past, agricultural and commercial activities, current industrial activities, grain handling, storage and movement of liquids, chemicals and wastes. Both risk factors were classified as being low risk and unlikely to occur.

#### Visual Bulk:

Clause 15.01-2S seeks to achieve building design and siting outcomes that positively contribute to the local context, enhance the public realm and support environmentally sustainable development. The 5 x 14.5m high silos are setback 5m from the western and northern boundary. The land abutting the western boundary is present of a shed towards the front setback and vacant to the rear where the silos will be closest. Dwellings are present within 50 to 100m of the subject site and the silos and would visually dominate the Bungaree landscape and are considered out of neighbourhood character.

Clause 11.02-2S (Structure Planning) facilitates the fair, orderly, economic, and sustainable use, and development of urban areas. Moreover, Clause 21.09 (Small Towns and Settlements), states that the use of vacant sites will be part of a wider strategic review of the growth potential of Bungaree. An application of this nature is considered to be premature given that the proposal on future structure planning for the Bungaree-Wallace area has formerly commenced with relevant agencies.

## GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by Council officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

## REFERRALS

Authority	Response
Central Highlands Water (Section 55)	Consent with conditions.
Department of Transport (Section 55)	Consent with conditions.
Powercor (Section 55)	Consent with conditions.
Agriculture Victoria (Section 52)	Letter of advice.
Environmental Protection Authority (Section 52)	Letter of advice.
Country Fire Authority (Section 52)	Letter of advice.
Internal Departments (Section 52)	
Infrastructure	Consent with conditions.
Strategic Planning	Raised concerns over the impact of the proposal on future Structure Planning for Bungaree-Wallace area.
Environmental Health	Consent with conditions.
Environment and Waste Management	Letter of advice – related to the impact of new access on newly planted trees along the road reserve.

## FINANCIAL IMPLICATIONS

The recommendation of refusal of this application has no financial implications to Council.

## RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation of refusal of this application does not implicate any risk or OH&S issues to Council.

## COMMUNICATIONS STRATEGY

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address the Development Assessment Committee if required.

**OPTIONS**

Council could consider the following options:

- Issue refusal to Grant a Permit in accordance with the recommendations of this report; or
- should a Notice of Decision be granted, the Committee must consider how the use and development complies with the Moorabool Planning Scheme.

**CONCLUSION**

Overall, the proposal is not conducive to farming practices and creates detrimental impacts to the sensitive interfaces with surrounding land uses. The application was assessed against the provisions, zone, overlays and decision guidelines and is not considered to meet the objectives of the Moorabool Planning Scheme.

The proposal to allow a high number of truck movements and considering the hours of operation being from 3am to 10pm for freight operations, it is not considered to contribute toward a net community benefit and a sustained development. The truck movements to obtain access to the Western Freeway, require movement through two residential townships, which will impact negatively on their amenity.

Therefore, the application does not accord with the provisions of the Moorabool Planning Scheme and is recommended for refusal.

**7.2 PA2022049 DEVELOPMENT OF TWO DWELLINGS AND TWO LOT SUBDIVISION AT 79 DICKSON STREET, BACCHUS MARSH**

**Author:** Thomas Tonkin, Statutory Planner

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:** 1. Proposed plans (under separate cover)

**APPLICATION SUMMARY**

**Permit No:** PA2022049

**Lodgement Date:** 1 April 2022

**Planning Officer:** Tom Tonkin

**Address of the land:** 79 Dickson Street, Bacchus Marsh

**Proposal:** Development of Two Dwellings and Two Lot Subdivision

**Lot size:** 701sqm

**Why is a permit required?** Clause 32.08-3 General Residential Zone – Subdivide land, Clause 32.08-6 General Residential - Development of two or more dwellings on a lot

**COMMITTEE RESOLUTION**

Moved: Cr Rod Ward

Seconded: Cr Moira Berry

**That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987*, issue a Refusal to grant Permit PA2022049 for Development of Two Dwellings and Two Lot Subdivision at Lot 34 on PS 007646 known as 79 Dickson Street, Bacchus Marsh, on the following grounds:**

- 1. The application does not meet the neighbourhood character objectives of General Residential Zone, Schedule 2 (Natural and Greenfield Residential Growth Areas) of Clause 32.08 of the Moorabool Planning Scheme.**
- 2. The attached boundary to boundary development does not accord with the preferred neighbourhood character as defined by Precinct 19 of Council's Housing Bacchus Marsh to 2041 policy.**
- 3. The application does not meet key neighbourhood objectives of ResCode, Clauses 55 and 56 of the Moorabool Planning Scheme.**
- 4. The proposed site layout does not provide sufficient opportunities to landscape the site, including canopy tree planting, to achieve the preferred neighbourhood character.**

**CARRIED**

<b>PUBLIC CONSULTATION</b>	
Was the application advertised?	Yes.
Notices on site:	Yes, one.
Notice in Moorabool Newspaper:	No.
Number of objections:	One formal objection and one petition.
Consultation meeting:	No, however informal consultation occurred between the parties.

## **POLICY IMPLICATIONS**

The Council Plan 2021-2025 provides as follows:

### **Strategic Objective 2: Liveable and thriving environments**

#### **Priority 2.1: Develop planning mechanisms to enhance liveability in the Shire**

## **VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

## **OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

In providing this advice to Council as the Executive Manager, I have no interests to disclose in this report.

*Author – Tom Tonkin*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

**EXECUTIVE SUMMARY**

Application referred?	The application was referred to Council's Infrastructure.
Any issues raised in referral responses?	No.
Preliminary concerns?	Non-compliance with standards for solar access to secluded private open space, overshadowing of existing adjoining secluded private open space, and the design response to the preferred neighbourhood character particularly boundary wall construction and the limited opportunities to landscape the site. Additionally, further information in the form of additional and amended plans and full title details were requested.
Any discussions with applicant regarding concerns?	Council officers wrote to the applicant regarding the abovementioned matters.
Any changes made to the application since being lodged?	Yes, amended plans were submitted to address the abovementioned concerns regarding solar access and overshadowing and the further information requested. Written justification regarding the design response to the preferred neighbourhood character was provided however there were no changes made to the plans to address this particular concern.
Brief history.	Not applicable.
Previous applications for the site?	Not applicable.
General summary.	<p>It is proposed to develop the site for two single storey dwellings and to subdivide the site into two lots. Both dwellings would comprise three bedrooms with the usual amenities.</p> <p>The application was advertised, and one objection and one petition were received raising several amenity concerns.</p> <p>Overall, the proposal does not adequately respond to the preferred neighbourhood character and amenity of the area and does not satisfy the ResCode requirements. It is recommended that the application be refused on those grounds.</p>
<b>Summary of Officer's Recommendation</b>	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , the Development Assessment Committee issue a Refusal to grant Permit PA2022049 for Development of Two Dwellings and Two Lot Subdivision at Lot 34 on PS 007646 known as 79 Dickson Street, Bacchus Marsh, on the grounds included in this report.	

## SITE DESCRIPTION

The subject site is identified as Lot 34 on PS 007646 and known as 79 Dickson Street, Bacchus Marsh. The site is located on the south side of Dickson Street between Young and George Streets and is a rectangular shape with a 15.24m width, 45.97m depth and overall area of 701sqm. The site is developed with a single storey weatherboard dwelling with a low pitched hipped iron roof and ancillary outbuilding in the rear setback. Vehicle access is via a single width crossover parallel to the east title boundary. A 1.52m wide drainage easement runs parallel to the rear title boundary.

The subject site and surrounding land is in the General Residential Zone, Schedule 2, and typified by mostly single dwellings but with occasional examples of multi-dwelling developments. Most dwellings are of detached single storey construction, with low pitched hipped roofs with eaves.

The surrounding pattern of subdivision is a modified grid layout, variations of which are usually smaller lots as a result of infill residential development. The subject site is generally typical of the size and shape of most lots in the surrounding area.

To the west of the subject site is a single storey weatherboard dwelling on a 701sqm lot. To the south, fronting Young Street, is a single storey weatherboard dwelling on a 945sqm lot. To the east are two single storey dwellings on separate lots of 355sqm and 346sqm, respectively fronting Dickson and Young Streets. To the north, across Dickson Street, is a single storey weatherboard dwelling on a 696sqm lot. Further the west of this lot are two infill developments each comprising two dwellings on lots subdivided in accordance with the constructed dwellings.



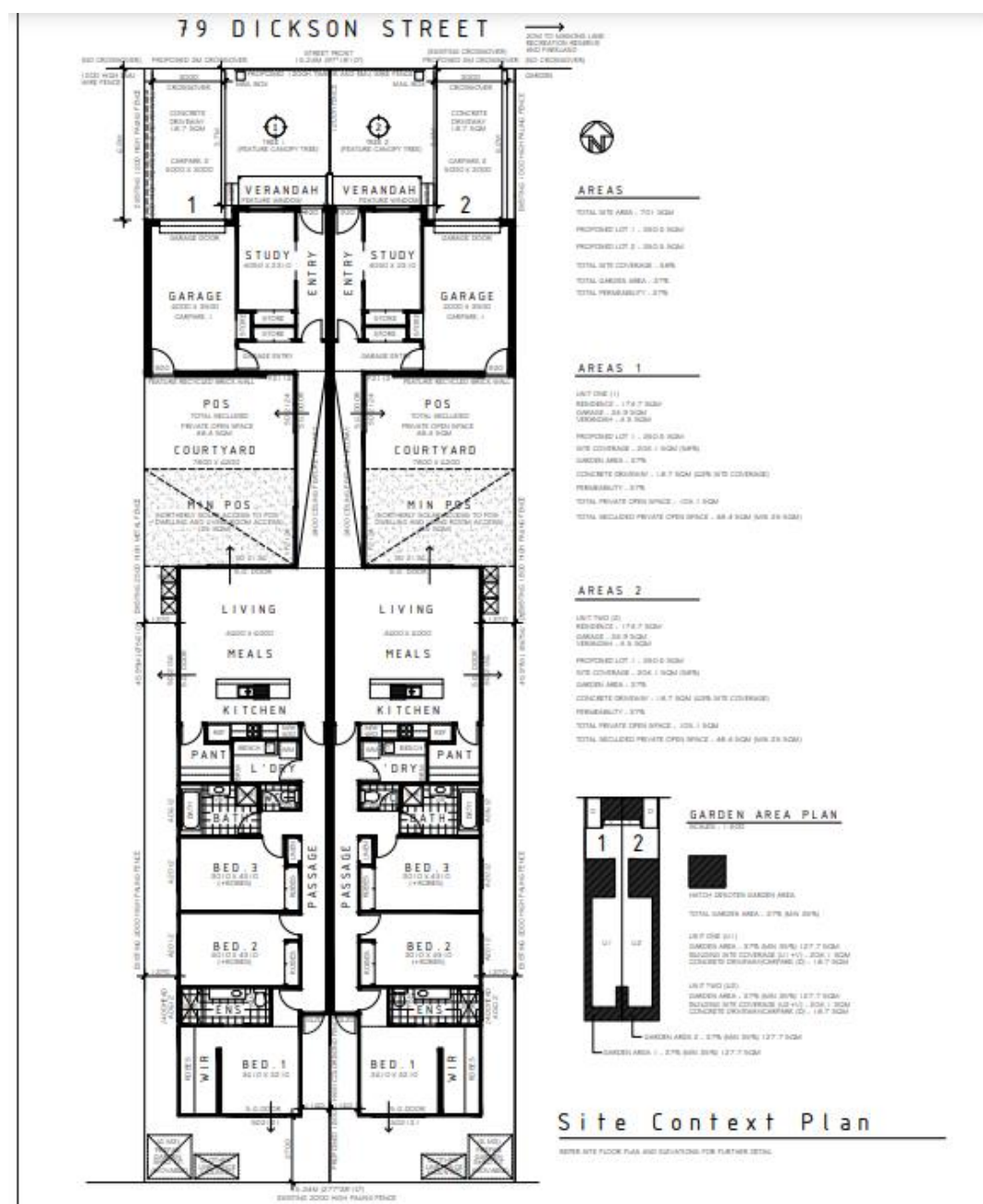
**Figure 1:** Aerial photograph



## PROPOSAL

It is proposed to develop the site for two dwellings and subdivide the land into two lots. The existing buildings would be demolished, and two semi-detached single storey dwellings constructed. The proposed dwellings, Units 1 and 2 on the plans, would have identical, 'mirror image' floor plans comprising three bedrooms, two bathrooms, study, laundry and open plan kitchen, meals and living area leading to secluded private open space. Each dwelling would have an attached single garage with a tandem car space in the respective front setbacks. The dwellings would be clad with a mix of materials with the front façades incorporating face brick and rendered brick and the side and rear façades rendered brick and James Hardie 'Stria' cladding or similar. The roof forms would be varied, incorporating Colorbond clad low pitched hipped and flat sections, with a single gable and bullnose verandahs to the front façades.

Proposed Lots 1 and 2 would be 350.5sqm, rectangular shaped, both 7.62m wide and 45.95-45.97m in length, respectively containing proposed Units 1 and 2.



**Figure 2: Proposed site plan and floor plan**

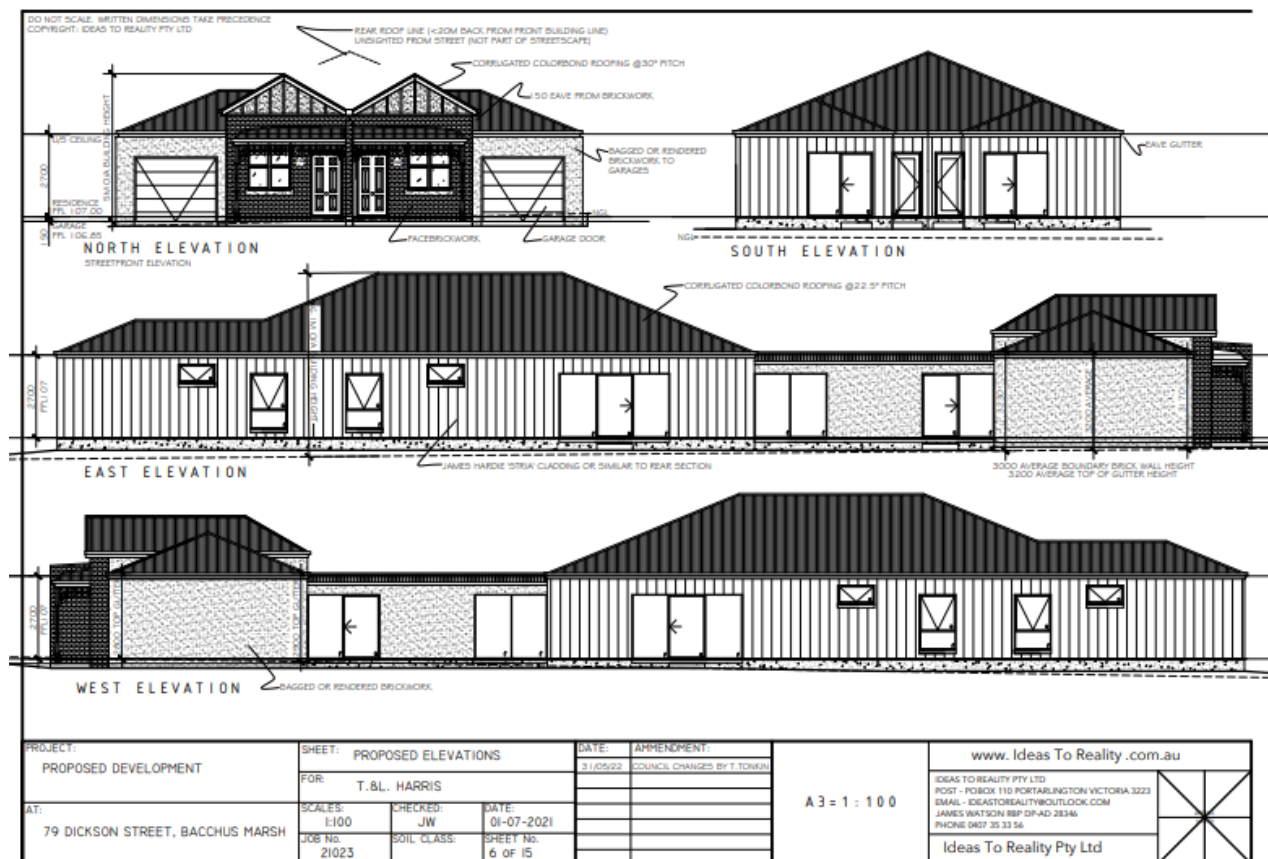


Figure 3: Proposed elevations

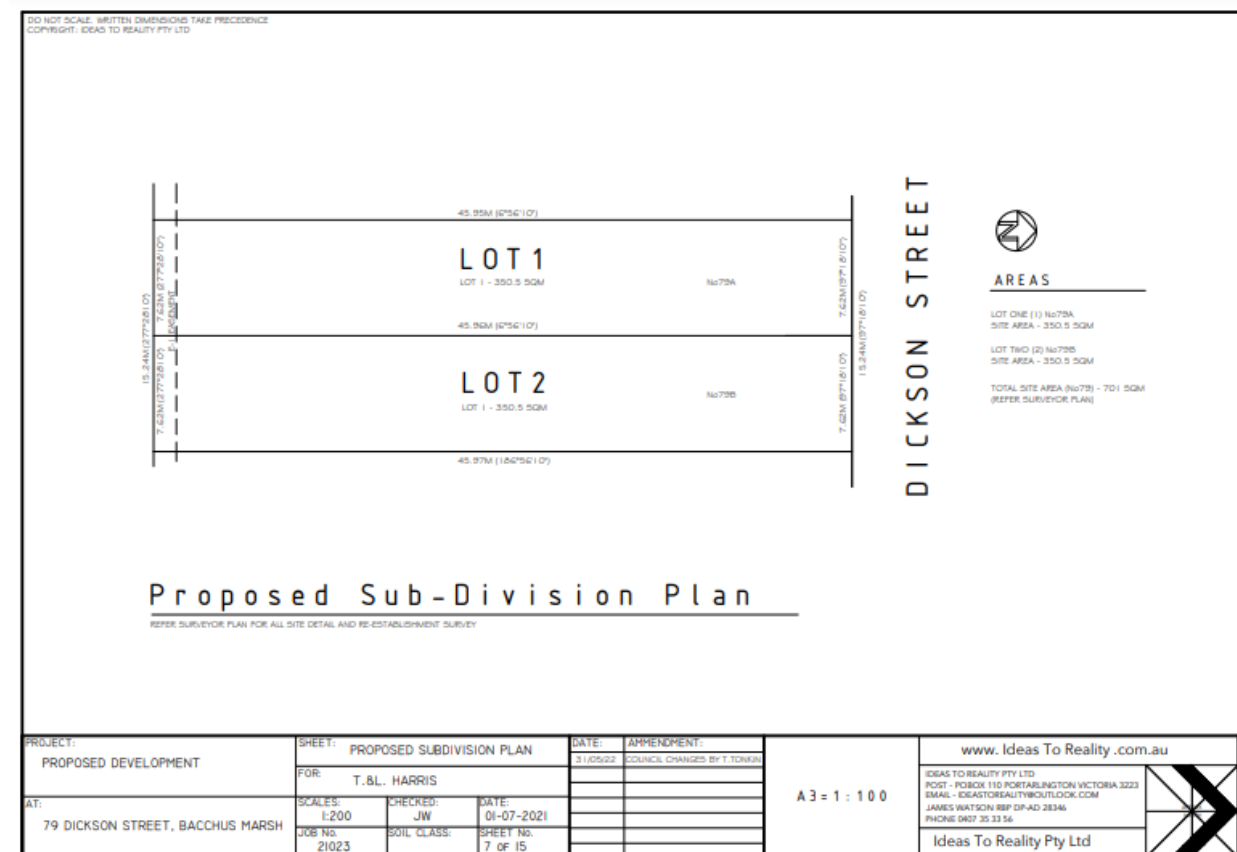


Figure 4: Proposed subdivision layout

**BACKGROUND TO CURRENT PROPOSAL**

Not applicable.

**HISTORY**

Not applicable.

**PUBLIC NOTICE**

Notice of the application was given to adjoining and nearby landowners and occupiers by letter and a sign erected on site. One objection was received.

On 26 October 2022 a petition with 23 signatures was received, objecting to the planning permit. The reason for the petition is stated as being 'to prevent further unit development in the Masons Lane end of Dickson Street, numbers 70-80 between George and Young Street. Further development will ruin the streetscape.' There is no further content in the petition relating to the current planning permit application. The petition will be referred to the Ordinary Meeting of Council on 7 December 2022 for consideration of its content.

**SUMMARY OF OBJECTIONS**

The objection and petition received are detailed below with the officer's accompanying comments:

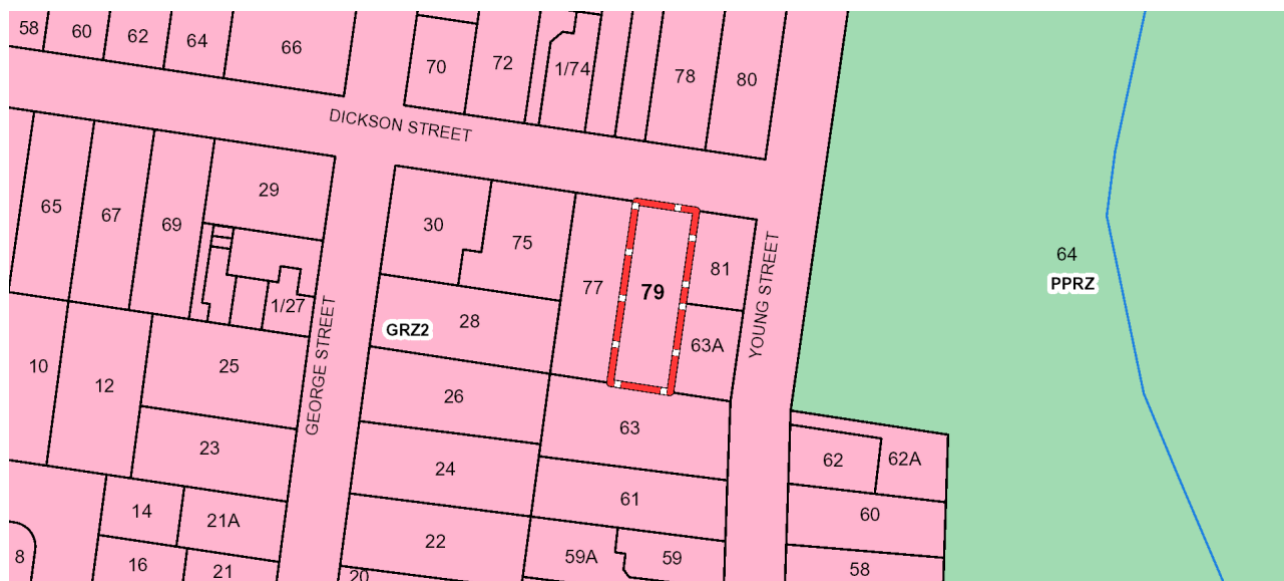
Objection	Any Relevant Requirement
Increased demand for on-street car parking and the associated impact on road congestion.	Clause 52.06.
<b>Officer's Response:</b> Each proposed dwelling is provided with two on-site car spaces which meets the statutory car parking requirement. Use of on-street car parking for any overflow parking would be considered generally acceptable in this location. It is noted that the statutory requirement for designated on-site visitor car parking spaces only applies for a development of five or more dwellings.	
Negative impact on property value due to the increasing number of unit developments in this section of Dickson Street.	
<b>Officer's Response:</b> The issue of impact on property values is not based on planning grounds and, therefore, cannot be considered in the assessment of the proposal.	

Unit 1's garage wall would block natural light to an existing dining room and courtyard.	Clauses 55.04-3 and 55.04-5.
<b>Officer's Response:</b> <p>Daylight to the dining room is from a glazed east-facing door leading to a courtyard approximately 2m wide in the existing dwelling's side setback. Based on the requirements of Standard B19 under Clause 55.04-3, daylight provision to the glazed door meets the standard. It is considered that the objective of Clause 55.04-3 'to allow adequate daylight into existing habitable room windows' is met.</p> <p>It is noted that given the narrow width of this courtyard and provision of a much larger area of private open space in the dwelling's rear setback the increased overshadowing of the courtyard is not considered unreasonable as it is not the principal area of secluded private open space, based upon its area and dimensions.</p>	
Unit 1's main area of secluded private open space would be directly opposite a child's bedroom, resulting in loss of privacy and unreasonable noise impacts if the area is being used for outdoor entertaining at night.	Clauses 55.04-6, 55.04-8 and 65.01.
<b>Officer's Response:</b> <p>Given the relatively confined nature of Unit 1's secluded private open space and its proximity to the window of a noise sensitive use the likely amenity impact for the occupant/s of the existing dwelling is considered greater when compared to possible alternate layouts. Notwithstanding that there is noise associated with normal domestic living and that the amenity impact may be infrequent, this aspect of the design is not considered to adequately protect the amenity of existing residents. However, it is considered that privacy concerns associated with overlooking could be adequately addressed by way of permit conditions for suitable fencing if a permit was to issue.</p>	
Due to the site fall, bedrooms 2 and 3 of Unit 1 would be elevated and overlook the adjoining backyard but a fence height of 8-9 feet (approx. 2.4-2.7m) is not considered acceptable.	Clause 55.04-6.
<b>Officer's Response:</b> <p>On the understanding that the proposed finished floor levels would be less than 0.8m above the proposed finished ground level at the property boundary, under Clause 55.04-6 a minimum 1.8m high fence would meet the requirements to limit overlooking. If a permit was to issue it is considered that a higher fence may be more appropriate to further limit potential overlooking but a fence height of 2.4m or greater would be considered unnecessarily high.</p>	

Any remaining privacy in my backyard will be lost given the overlooking from another neighbour's dwelling of internal living areas.	Clause 55.04-6.
<b>Officer's Response:</b> As stated above, provision of common boundary fencing with the subject site could be designed to limit overlooking to meet the requirements of Clause 55.04-6, so as not to add to the overlooking already experienced from other properties.	
The road gutters in the area already flood due to more regular heavy rainfall events. This would be exacerbated by the proposed development which has a large building footprint.	Clause 56.07-4.
<b>Officer's Response:</b> If a permit was to issue, a condition of approval would require a stormwater system to be designed to Council's satisfaction to meet the requirements of Clause 56.07-4, including to minimise the increase in stormwater runoff.	
A local plumber has advised that the area's sewer is outdated and already struggling to meet current wastewater loads.	Clause 56.07-3.
<b>Officer's Response:</b> If a permit was to issue, certification of the plan of subdivision would be conditional on the approval of the relevant sewerage authority, Greater Western Water.	
Further development will ruin the streetscape.	Clauses 15.01-3S, 15.01-5S, 21.03-4 and 21.07-6.
<b>Officer's Response:</b> The proposed design and layout, particularly the construction to both side property boundaries which is prominent in the streetscape, does not respect the preferred neighbourhood character of the area. See 'Discussion' below.	

## LOCALITY MAP

The map below indicates the location of the subject site and the zoning of the surrounding area.



**Figure 5: Zone map**

## PLANNING SCHEME PROVISIONS

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 11.01-1R Settlement – Central Highlands
- Clause 11.03-3S – Peri-urban areas
- Clause 15.01-3S – Subdivision design
- Clause 15.01-5S – Neighbourhood character
- Clause 15.02-1S – Energy and resource efficiency
- Clause 16.01-1S – Housing supply
- Clause 16.01-2S – Housing affordability
- Clause 21.02-6 – Environmentally sustainable development
- Clause 21.03-2 – Urban Growth Management
- Clause 21.03-3 – Residential Development
- Clause 21.03-4 – Landscape and Neighbourhood Character
- Clause 21.07-2 – Managing urban growth
- Clause 21.07-6 – Urban design

The proposal does not comply with the relevant section of the PPF and the LPPF clauses outlined in the table below:

PPF	Title	Response
Clause 15.01-5S	Neighbourhood character	The proposed development does not respect the preferred neighbourhood character of the area, particularly the boundary wall construction and site coverage with minimal opportunities for canopy tree plantings.
<b>LPPF</b>		
Clause 21.03-4	Landscape and Neighbourhood Character	The proposed development does not respect the preferred neighbourhood character of the area, particularly the boundary wall construction and site coverage with minimal opportunities for canopy tree plantings.
Clause 21.07-6	Urban design	The proposed development is not designed in accordance with the preferred character statement for Precinct 19 as set out in Housing Bacchus Marsh to 2041.

## ZONE

The subject site is in the General Residential Zone, Schedule 2 (GRZ2). The purpose of the Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Under Clause 32.08-3 a permit is required to subdivide land and under Clause 32.08-6 a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Under Clause 32.08-4, an application to develop a lot of more than 650sqm for dwellings must have a minimum of 35% of the site set aside as garden area.

Schedule 2 relates to areas identified for 'natural' residential growth and specifies the following neighbourhood character objectives:

- To encourage new development, including innovative and unique development that enhances and responds positively to the existing neighbourhood character.
- To encourage an increase in landscaping within the public and private realm.
- To encourage new development to respect existing setbacks within the streetscape.
- To encourage new development to have minimal or low scale front fencing.
- To ensure garages, carports, and second storey development do not visually dominate dwellings or streetscapes.

Overall, the proposal is not considered to be in accordance with the GRZ2 provisions – see ‘Discussion’ below.

## OVERLAYS

There are no overlays affecting the site.

## Relevant Policies

All relevant Council policies have been implemented in the Moorabool Planning Scheme, in particular *Housing Bacchus Marsh to 2041*.

## Particular Provisions

### Clause 52.06 Car Parking

Under Clause 52.06-5 each dwelling with more than three bedrooms requires two car spaces. Both proposed dwellings are provided with two car spaces in a single garage and additional car space. The car space, accessway and crossover dimensions meet the requirements of Clause 52.06-9.

### Clause 55 Two or More Dwellings on a Lot and Residential Buildings

The proposal does not comply with the following objectives and standards of Clause 55 as set out in the table below.

Clause ResCode	Title	Response
Clause 55.02-1	Neighbourhood character objectives	The proposal does not adequately contribute to the preferred neighbourhood character, in particular, the proposed boundary wall construction and limited opportunities for canopy tree planting.
Clause 55.03-3	Site coverage objective	Whilst the proposed 58% site coverage is within the maximum 60% allowed for under the standard, the proposed design does not meet the objective which is to ensure that site coverage meets the preferred neighbourhood character characterised by large open spaces.
Clause 55.03-5	Landscaping objectives	The proposal does not provide adequate opportunities to landscape the site in accordance with the preferred neighbourhood character objectives for this area.
Clause 55.04-2	Walls on boundaries objective	The location of proposed boundary walls, readily visible from the street and spanning the width of the site, do not accord with the preferred neighbourhood character objectives for this area.



Clause 55.04-8	Noise impacts objectives	The proximity of Unit 1's main area of secluded private open space to an existing bedroom creates potential for unreasonable amenity impacts generally not in keeping with residential amenity of the area.
Clause 55.06-1	Design detail objective	The proposed building design, notably the streetscape presentation with boundary walls readily visible and garages occupying approximately 50% of the building's frontage width, does not respect the preferred neighbourhood character.

### Clause 56 Residential Subdivision

The proposal does not comply with the following objectives and standards of Clause 56 as set out in the table below.

Clause ResCode	Title	Response
Clause 56.03-5	Neighbourhood character objective	The proposed subdivision, in particular the narrow lot widths, would not achieve the preferred neighbourhood character which generally supports detached dwellings with conventional front and side setbacks.

## **DISCUSSION**

Overall, the proposed dwelling development and subdivision is inconsistent with the relevant planning provisions, in particular aspects of state and local planning policy, the General Residential Zone provisions, Clauses 55 and 56 and the decision guidelines at Clause 65 of the Moorabool Planning Scheme.

Relevant planning policy at the state and local level requires consideration of a range of policies which generally support the valued character of Melbourne's peri-urban settlements whilst ensuring growth is consolidated in suitable locations to ensure no detrimental impacts to the environment or rural land uses. The Central Highlands Regional Growth Plan (Victorian Government 2014) and local policies at Clause 21.07 of the Moorabool Planning Scheme recognise Bacchus Marsh's role in supporting residential growth as the Shire's largest town. This must be achieved by directing growth to preferred locations with access to services and infrastructure, respect for neighbourhood character and integration with surrounding development.

The subject site and surrounding land is in the General Residential Zone, Schedule 2 (GRZ2). Existing developments nearby reflect the growth of Bacchus Marsh over many decades, typified by mostly single dwelling developments but with several examples of medium density infill housing developments generally spanning the past 20 years. The proposed development is generally responsive to the policy context for consolidated township growth. However, the proposed design does not meet the purpose of the GRZ2, including the neighbourhood character objectives for Schedule 2, nor the state and local policy directives for neighbourhood character or several of the objectives under Clauses 55 and 56 also relating to neighbourhood character and amenity.

Council's Housing Bacchus Marsh to 2041 policy ("the Policy") identifies the neighbourhood character Precinct 19 in which the subject site and surrounding properties are located as being recommended for 'natural residential growth'. This is defined in the Policy as follows:

*"Applies to residential land that has been identified for natural change over time. Appropriate well designed, infill development, including multi-unit developments that complement the preferred character of the area, while providing for a variety of housing options will be encouraged in suitable locations."*

The 'Preferred Character Statement' for Precinct 19 identifies the following key development features to guide future development:

- This precinct will generally maintain a streetscape rhythm of detached dwellings with conventional front and side setbacks. Built form to one boundary may be appropriate where the preferred character of the precinct is not compromised. Boundary to boundary development should be avoided.
- Built form will generally be of a modest scale, however innovative and unique built form, that enhance the character of the precinct will be encouraged. New development located in close proximity to dwellings that exhibit historical architectural styles should not compromise the intact existing character of these dwellings.
- Multi-dwelling developments should minimise the need for additional crossovers to the street, be located on lots within the precinct that are within a walkable distance of some services and facilities and have minimal impact on the streetscape rhythm and pattern. Therefore, some lots within the precinct may not be suitable for further intensification.
- Low scale or no front fencing is preferred which will allow views into landscaped front gardens. Built form will not dominate the lot and will create opportunities for generous private open space and garden plantings. Increasing canopy tree cover will assist in improving the landscape within the precinct, while also achieving a balance between open space and built form.

Based on the above guidance, and noting the 'Preferred Character Statement' has informed the neighbourhood character objectives in the GR22, the proposed development does not meet the neighbourhood character policy directives in the relevant clauses of the Moorabool Planning Scheme, for the following reasons:

- The semi-detached construction of Units 1 and 2, spanning the width of the site, further exacerbated by the prominence of the garages as viewed from the streetscape.
- The proposed built form, as described above, is inconsistent with the prevailing streetscape rhythm and pattern of dwellings nearby which are mostly set back from both side boundaries on lots with substantially wider frontages than those proposed.
- The proposal results in extensive site coverage and a layout which creates minimal opportunities for canopy tree plantings to soften the built form and improve the appearance of the area.

Private open space provision would meet the minimum requirements, including for solar access, with the proposed dwellings' main internal living spaces oriented to the north for solar access. Daylight to all habitable room windows meets the minimum requirement. Both dwelling entries would be readily visible from the street and provide an acceptable sense of address and both dwellings would have storage to meet the minimum standard.

Design features such as the single storey form, roof pitch and cladding, external wall claddings and finishes and fenestration are generally acceptable in terms of neighbourhood character. However,

as outlined above, the overall built form is not sufficiently responsive to the preferred neighbourhood character and is not supported.

### GENERAL PROVISIONS

Clause 65 - Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

### REFERRALS

Authority	Response
Council's Infrastructure	Consent with conditions.

### FINANCIAL IMPLICATIONS

There are no financial implications for Council in refusing this application for development and subdivision.

### RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES

The recommendation to refuse this application for development and subdivision does not have any risk or OH&S implications for Council.

### COMMUNICATIONS STRATEGY

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. The submitter and the applicant were invited to attend this meeting and address Council if required.

### OPTIONS

- Issue a Refusal to grant a Permit in accordance with the recommendation of this report; or
- Should a Notice of Decision be granted, the Committee must consider how the development and subdivision complies with the Moorabool Planning Scheme.

### CONCLUSION

Overall, the proposed dwelling development and subdivision is not sufficiently responsive to the relevant policies in the Moorabool Planning Scheme, particularly relating to the preferred neighbourhood character of Precinct 19, as set out in Housing Bacchus Marsh to 2041. The overall design and layout of the development and subdivision does not meet all relevant objectives for neighbourhood character and amenity and accordingly it is recommended that the application be refused on the grounds contained in this report.

**8 UPDATE ON VCAT DECISIONS**

Nil.

**9 OTHER BUSINESS**

Nil.

**10 DATE OF NEXT MEETING**

Wednesday 14 December 2022.

**11 MEETING CLOSE**

The Meeting closed at 6:21pm.

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**CHAIRPERSON**